THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 116 of 2006

MurtjA Ali S/O Sh. Sabir Hussain,
R/O Moh. Shyam Nagar Sultan Pur Patti
Tehsil Bazpur, District Udham Singh Nagar.

… Petitioner.

Versus

1. State of Uttaranchal through Secretary, Revenue, Finance, Urban Development Dehradun, Uttaranchal.
2. The Collector, Udham Singh Nagar
3. The Tehsildar, Bazpur, District Udham Singh Nagar.
4.. The Executive Officer, Nagar Panchayat Sultanpur, Bazpur, Distt. Udham Singh Nagar.

… Respondents.

Sri Gopal K.Verma, learned counsel for the petitioner.
Sri Nand Prasad, learned Standing Counsel for the respondent no. 1 to 3.

Dated February 17, 2006.

Hon'ble B.S. Verma, J.

Heard Sri Gopal K. Verma, learned counsel for the petitioner and Sri Nand Prasad, learned Standing Counsel for the respondent nos. 1 to 3.

The petitioner has filed this writ petition for staying the recovery of the stamp dues per Annexure No. 1 to the writ petition.

According to the petitioner, after acceptance of his bid, the petitioner was directed to sign the indemnity bonds as well as agreement in compliance of the directions of respondents no. 3 and accordingly the petitioner singed the indemnity bonds. On the indemnity bonds, the stamp duty was to be paid according to Article 57 of Schedule 1-B of the Stamps Act. The stamp duty imposed is bad in law and this controversy has already been decided by the Allahabad

High Court in the case of Tajveer Singh and others Vs. State of U.P. and others reported in 1997 (29), A.L.R., page 687 in which it has been decided that on the security bond, the stamp duty is to be paid Rs. 100/- only and the same cannot be calculated on ad-valorem basis.

It reveals from the record that in the present case, the recovery proceedings are arising out from a stamp case decided by the Collector/A.I.G. Stamps and the stamp duty and penalty have been imposed by the authority concerned on ad-valorem basis and the recovery proceedings were initiated for the deficient stamp duty imposing penalty against the petitioner on the basis of Stamp Case decided by the authority concerned. The petitioner has an alternate remedy to recall the ex-parte order as alleged by the petitioner.

If the petitioner files a recall application along with an application under Section 5 of the Limitation Act for condonation of delay before the Authority concerned within two weeks, the authority concerned, after receipt of the application of the petitioner shall decide the application expeditiously as early as possible preferably within a period of four weeks thereafter. Till then, the impugned recovery vide Annexure 1 to the writ petition shall remain stayed.

With the said observations, the writ petition is disposed of finally.

(B.S.Verma, J.)

17.02.2006
RCP